

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES WALKER,

Plaintiff,

v.

MARVIN POWERS, et al.,

Defendants.

No. 05-CV-0824-DRH

MEMORANDUM and ORDER

HERNDON, Chief Judge:

On November 16, 2005, James Walker, an inmate confined at Tamms Correctional Center, filed suit against Defendants for deprivations of his constitutional rights pursuant to 42 U.S.C. § 1983 (Doc. 1). On March 27, 2007, Walker filed a First Amended Complaint (Doc. 60). Specifically, Walker alleges that Defendants were deliberately indifferent to his serious medical needs. Count 1 is brought pursuant to the United States Constitution and Count 2 is brought pursuant to the Illinois Constitution.

Pursuant to **28 U.S.C. § 636(b)(1)(B)**, Magistrate Judge Philip M. Frazier submitted a Report and Recommendation ("the Report") on January 30, 2008 (Doc. 82). The Report recommends that the Court grant Defendants' motions for summary judgment (Docs. 67 & 71). Specifically, the Report recommends as to Count 1 that the Court dismiss any official capacity claim against Defendant Caliper and that the Court find in favor of Defendants Caliper and Powers on the individual

capacity claims. Further, the Report recommends as to Count 2 that the Court dismiss without prejudice to Plaintiff's right to litigate his remaining state law claim in state court.

The Report was sent to the parties with a notice informing them of their right to appeal by way of filing "objections" within ten days of service of the Report. To date, none of the parties has filed objections. The period in which to file objections has expired. Therefore, pursuant to **28 U.S.C. § 636(b)**, this Court need not conduct *de novo* review. ***Thomas v. Arn*, 474 U.S. 140, 149-52 (1985)**.

Accordingly, the Court **ADOPTS** the Report (Doc. 82). The Court **GRANTS** Defendants' motions for summary judgment (Docs. 67 & 71). The Court **DISMISSES with prejudice** the claims against Defendant Caliper in her official capacity in Count 1 of the First Amended Complaint. The Court also finds in favor of Defendants Caliper and Powers and against Walker on the individual capacity claims in Count 1 of the First Amended Complaint. Further, the Court **DISMISSES without prejudice** Count 2 of Plaintiff's First Amended Complaint.

IT IS SO ORDERED.

Signed this 22nd day of February, 2008.

/s/ David R. Herndon

**Chief Judge
United States District Court**